

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

ERIC S. CLARK,)	
)	
Plaintiff,)	
)	
v.)	Case No.: 4:21-CV-0104-DGK
)	
DARRYL FORTE, in his official capacity)	
as Jackson County Sheriff, and)	
)	
BRIDGETTE SHAFFER, in her official)	
Capacity as Jackson County Health Director,)	
)	
Defendants.)	

**ORDER DENYING MOTION FOR RECONSIDERATION, BUT AMENDING
JUDGMENT TO CORRECT CLERICAL ERROR**

Plaintiff pro se Eric Clark sued the Jackson County, Missouri, Health Director and the Jackson County, Missouri, Sheriff for issuing and enforcing a public health order requiring a face mask or covering be worn in public places where “social distancing” was not possible. He sought a declaration that the statute authorizing issuance of a public health order, Mo. Rev. Stat. § 192.300, was unconstitutional, as well as a permanent injunction prohibiting Defendants from enforcing the public health order against him.

Plaintiff filed this lawsuit in the Circuit Court of Jackson County, Missouri, and Defendants removed it to federal court. Plaintiff filed a motion to remand, ECF No. 3, which the Court denied, ECF No. 37.

While the case was pending, Jackson County eliminated the objectionable portion of its public health order. On August 18, 2021, the Court granted Defendant Shaffer’s motion to dismiss because the case had become moot. ECF No. 38.

Now before the Court is Plaintiff's Motion for Reconsideration and to Amend Judgment. ECF No. 40. Plaintiff argues the Court committed reversible error by denying his motion to remand and granting the motion to dismiss.¹ After carefully reviewing the record, the Court holds it did not err in these rulings. The portion of the motion seeking reconsideration of these rulings is denied.

Plaintiff, however, also correctly observes that the Court's judgment, ECF No. 39, contains a typographical error in that it states that all claims are dismissed "with" prejudice, when the order granting the motion to dismiss states that dismissal is "*without* prejudice." ECF No. 38 (emphasis added). This portion of the motion is granted. The Court will issue an amended judgment dismissing the claims without prejudice.

The motion is GRANTED IN PART.

IT IS SO ORDERED.

Date: September 10, 2021

/s/ Greg Kays
GREG KAYS, JUDGE
UNITED STATES DISTRICT COURT

¹ On September 8, 2021, filed a Second Motion for Reconsideration. The second motion argues this case is not moot because on August 6, 2021, Jackson County issued a new mask mandate "affecting" him. Plaintiff filed the initial motion for reconsideration on August 20, 2021, well after the new mask mandate was issued. Because Plaintiff's new argument could have been raised earlier, in the initial motion, but was not, the Court will not consider it. See *Martin v. Am. Airlines, Inc.*, 390 F.3d 601, 609 n.4 (8th Cir.2004) (refusing to consider argument raised for the first time in a reply brief).